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# Measuring Legal Fictions: Law and Sovereignty in *Measure for Measure*

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MEASURING LEGAL FICTIONS:  
LAW AND SOVEREIGNTY IN  
*MEASURE FOR MEASURE*

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James Funk  
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## ABSTRACT

In this paper I argue that Shakespeare's *Measure for Measure* interrogates the performativity inherent in the exercise of law and sovereignty, ultimately revealing that internal contradictions within the early modern political system create the possibility for change. At the level of plot, the substitution of Angelo for the supposedly absent Duke highlights the impossibility of the law's attempt to personify justice. The same issue reveals itself in how one reads the text; there are two ways, for example, to interpret the Duke's declaration near the end of the play that there is "more behind that is more grate"': the temporally ambiguous signification of the word "behind" can suggest, on the one hand, that the Duke's marriage solution—specifically his proposal to Isabella—simply repeats her traumatic encounter with the law embodied in Angelo. At the same time, he might be admitting (unwittingly perhaps) that justice must always be conceptualized as a future event, one that the performative legal structure cannot fully capture. While most critics must ignore this undecidability in the interest of their own interpretation, it seems to me to be the play's most important feature, ensuring as it does that the text (and the power structure depicted in it/constituted by it) is never stable. My paper thus explores a connection between close reading and politics that early modern scholars rarely acknowledge: while New Historicist critics have discussed the relationship between literary texts and institutions in the early modern period, my investigation focuses on the potentially radical consequences of textuality itself.

## DEDICATION

I dedicate this thesis to Catherine Williams, whose words of encouragement sustained me throughout the project.

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In Act 4 of Shakespeare's *Measure for Measure*, the Provost offers Pompey, a "notorious bawd" imprisoned during Angelo's crackdown on illicit sexuality in Vienna, an opportunity to reduce his sentence by assisting the hangman Abhorson in an execution (4.2.11). Abhorson objects, claiming that Pompey will "discredit our mystery" (4.2.22). While most immediately denoting his profession, the "mystery" to which Abhorson refers also evokes the general "mystery" of the law, how it is formed and why it is followed. Abhorson's choice of words confuses Pompey, who wonders "what mystery there should be in hanging" (4.2.30-31). The executioner's response—that "every true man's apparel fits your thief"—suggests an inconvenient parallel between the criminal and the agent of law, one that may be too easily highlighted by the direct participation of Pompey in the execution: by substituting a pimp for a traditional executioner, the Provost threatens to reveal the mutually constitutive relationship of law and lawlessness (4.2.34). Abhorson's "mystery" thus becomes the murky, violent foundation of the law, the fact that it arises not from divine order but from a performative and thus unstable force. Montaigne takes up this concern in "An Apology for Raymond Sebond," arguing that the "Law [...] bases the truth of its justice upon legal fictions." By overturning the binary of truth and falsehood operating within the law, Montaigne suggests that its ultimate "truth" is inseparable from the "legal fictions" that undergird it (603). The very structure of the law demands a supplement—some sort of "fiction"—to mask an absence of truth at its core, to convince the subject that an executioner is not and could never be a pimp. According to Montaigne, the law's supplementary nature makes interpretation rather than simple rule-following the most important task of the judge, claiming in "On Experience" that

“laws [...] can be adapted to each one of our concerns by means of some twisted, forced or oblique interpretation” (1213). As the language suggests, interpretation, which Montaigne elsewhere in the essay calls the “force of law,” has an essentially violent character: a juridical decision can always deviate from the intended meaning of the law in question (1210). Just as fiction is subject to multiple interpretations based on the perspective of the reader, the judge’s understanding of a statute depends on his or her reading of it, a reading that can change from person to person. Amid such epistemological uncertainty, is the judge ever capable of delivering pure, unadulterated justice, or does the trace of fiction lodged within the law ensure that it is always already compromised?

Shakespeare foregrounds this question in *Measure for Measure*, a proleptically Kafkaesque play which explores the “legal fictions” that comprise the law while simultaneously compromising it. As a political experiment, Duke Vincentio transfers power to his deputy Angelo and disguises himself as a friar to monitor his substitute’s ability to govern. In the Duke’s ostensible absence Angelo abuses his newfound power: not only does he sentence Claudio to death for impregnating his fiancée, but he also informs Claudio’s sister Isabella—soon to become a nun—that he will pardon Claudio only if she agrees to sleep with him. In an act of quasi-divine intervention, Vincentio stages a return to Vienna, arranging a series of marriages (which includes his marriage proposal to Isabella) intended to restore order to the city. But it is unclear whether the Duke has actually resolved anything; although marriage or engagement represents the proper conclusion of Shakespearean comedy, wedlock in *Measure for Measure* seems far

from comedic. Isabella's closing silence suggests that the Duke has in fact silenced her, imposing a penalty equally as harsh as Angelo's.

In this paper I will argue that in *Measure for Measure* Shakespeare depicts a political system under erasure by interrogating the performativity inherent in the exercise of law and sovereignty. By capturing the internal contradictions of the early modern system of law, Shakespeare reveals what Chantal Mouffe calls the "empty place of power," portraying a symbolic network structured around a metaphysical absence (2). Such an absence—which results quite literally from the Duke's supposed departure from the city—creates the need for Montaigne's supplementary "legal fictions." In this schema, the interpretative exercise of law exists against a background of infinite justice: the former attempts to capture the latter, but because of its performative character it always misses its mark.

Much of the play allegorizes this inevitable disjunction between the violence of interpretation and the presence of pure justice, most notably in Angelo's harsh reading of Vienna's legal code and Isabella's response to Claudio's plea for help. Although he readily concedes the structural shortcomings of the law—the fundamental interpretability at the core of legal proceedings—Angelo ignores these epistemological difficulties through the arbitrary force of an unjust decision regarding Claudio's "crime" of fornication. Angelo fails to acknowledge that, at least in early modern England, a couple can legitimate a marriage through a performative speech act, thus bypassing a traditional



wedding ceremony.<sup>1</sup> The ambiguous status of marriage challenges Angelo's literalist legal philosophy, suggesting instead that the law is unstable and open to various—and potentially unjust—readings. While Isabella halfheartedly attempts to intervene on her brother's behalf, her swift rejection of Claudio amounts to a repetition of the force with which Angelo exercises the law. In having to decide whether to save Claudio's life by sleeping with Angelo or to preserve her chastity in accordance with her religious vows, Isabella finds herself in a position where no overarching ethical guideline conforms to the individual situation. Is her responsibility to her brother or to God? Are the two mutually exclusive? While these questions yield no easy answers, Isabella is insistent in her refusal to aid Claudio, thus denying the ambiguity and difficulty of her responsibility to the other.

Interestingly, many critical evaluations of *Measure for Measure* subscribe to the same interpretative violence as the characters in the play. As David Lindley notes, “*Measure for Measure* has been transformed in recent years from a play of Christian redemption to a drama of the duplicity of power,” a shift that stands as a microcosm for the general movement in literary history from humanism to poststructuralism (334). Scholars like Lindley view the play in an ethical light, arguing that it represents a meditation on the conflicting values of justice and mercy.<sup>2</sup> Others—influenced mainly by

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<sup>1</sup> While Shakespeare sets *Measure for Measure* in Vienna rather than, say, London, I will follow critics like B. J. Sokol and Mary Sokol in assuming that the political and legal issues the text raises revolve around England rather than the Continent. See Sokol and Sokol, *Shakespeare, Law, and Marriage*, pp. 8-9.

<sup>2</sup> See, for example, Lindley's “The Stubbornness of Barnardine: Justice and Mercy in *Measure for Measure*,” Peter Meidlinger's “When Good Meets Right: Identity, Community, and Agency in Shakespeare's Comedies,” and Robert B. Pierce's “Being a Moral Agent in Shakespeare's Vienna.”

Foucault—contextualize the play within early modern discourses of power.<sup>3</sup> While the former group asserts that Vincentio ultimately achieves some level of justice, the latter argues that the Duke has merely reaffirmed his totalitarian power, leaving the Viennese citizens no hope for a just future. The wildly divergent claims of these camps emerge out of the undecidability of the text: for a critic—whether humanist or poststructuralist—to make a claim about *Measure for Measure*, he or she must often ignore elements of the play that contradict such an interpretation, a sort of violence that seeks to impose a single meaning on a text that resists such totalization.

I question the binary opposition that posits the play as *either* a text about explicitly Christian and implicitly conservative ethics *or* a text about radical politics and forms of resistance. I want to suggest instead that in *Measure for Measure* Shakespeare formulates a political vision through an essentially ethical meditation on alterity: if Isabella and Angelo’s respective encounters with otherness center on the properly ethical response to reading a legal text and conducting a relationship with another person, Duke Vincentio’s effort to restore order to Vienna at the end of the play—an act as performative and violent as any—raises questions about how one should respond to the otherness of the future. Here G. Wilson Knight’s much-maligned thesis that the Duke represents God acquires new importance: despite its obvious flaws, Knight manages to identify a certain messianic structure that I will argue is at work in the play, but in a way completely opposed to his reading. Whereas Knight assumes that the Messiah (the Duke)

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<sup>3</sup> Perhaps the most influential Foucauldian treatment of the play is Jonathan Dollimore’s “Transgression and Surveillance in *Measure for Measure*.” See also Mark Fortier’s “‘Mortality and Mercy in Vienna’: *Measure for Measure*, Foucault, and Marowitz.”

returns and completely restores order, for me the “empty space” conditioned by the inevitable disconnect between law and justice remains at the play’s end, creating the possibility for political change.<sup>4</sup> If the play ends with an assertion of law and not justice, I want to argue ultimately that the possibility of justice nevertheless reveals itself, if only ambiguously: in deconstructing the early modern legal and political structure, Shakespeare suggests that internal contradictions in the current political scene provide the condition of possibility for a more just—or at least a radically different—future.

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*Measure for Measure*’s opening immediately destabilizes the government of Vienna, highlighting an absence in its structure that will haunt the remainder of the play. Shakespeare establishes a basic binary opposition between the Duke and Angelo, “elected” by his superior to “supply” his “absence” (1.1.18). Angelo is depicted in terms of textuality, a mere representation of the concept of pure justice supposedly embodied in the Duke. Indeed, he asks his ruler to give him an opportunity to prove his worth “before so noble and so great a *figure* / Be stamped upon it” (1.1.48-49, my emphasis). The language here evokes the early modern anxiety over the shortcomings of representation, a concern to which Shakespeare devotes a great deal of attention. As Jacques Lezra notes, the problematic nature of figurality had serious political implications for early modern audiences: “As the transition from Elizabeth to James would all too clearly suggest, this

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<sup>4</sup> This understanding of the legal and political structure is indebted to Jacques Derrida’s later work, particularly “Force of Law: The ‘Mystical Foundation of Authority’” and *Rogues: Two Essays on Reason*, which explore themes of law and sovereignty, respectively. While my use of Derrida to analyze an early modern text may seem anachronistic, it is important to note that “Force of Law” takes its title from the Montaigne quotation I mention above. For a reading of *Measure for Measure* that briefly mentions “Force of Law,” see Jeremy Tambling’s “Law and Will in *Measure for Measure*.”

‘supplying’ of an absence, characteristic of a monarch’s power but also of the impersonal power of the monarchy itself, inevitably risked showing the inadequacy of the ‘substitute’ to the ‘absence’ he or she supplied” (259). The importance of substitution—Angelo for Vincentio, signifier for signified, performative law for transcendental justice—subverts the conventional wisdom of a legal structure grounded in positive ontological value, suggesting instead that the origin of the legal or political institution is predicated on figurality (what Montaigne calls “legal fiction”) rather than conceptual purity. This originary ambiguity is apparent not only in Angelo’s depiction as text but also from the commission Vincentio gives to Angelo and Escalus before he hands over power. This document, the contents of which are never directly revealed to the reader, underscores the absence that sets the plot in motion.<sup>5</sup> Escalus says as much, admitting that he possesses “a power” of whose “strength and nature I am not yet instructed” (1.1.79-80).

From the very beginning, then, Shakespeare suggests that Angelo is a placeholder, a temporary and flawed signifier that will never capture the concept of “justice” in its entirety. We thus have a supplement that simultaneously adds to and masks an emptiness at the core of the legal and political structure opened through the absence of Vincentio. This interplay of presence and absence—whereby Vincentio ostensibly leaves Vienna

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<sup>5</sup> In an article that seeks to connect *Measure for Measure* with British imperialism, Richmond Barbour argues that the commission “foregrounds a structural problem of imperial deputation: persons acting in another’s person must improvise. Even given a detailed script, they could not follow it but would find themselves accountable for their own decisions in predicaments unforeseen by the authorities whom they serve” (193). I think we can apply Barbour’s specific historical analysis to a more general theme of sovereignty in the early modern period: the shift from the full and almost godlike sovereignty of the Duke to the politics of substitution and divided sovereignty embodied in the character of Angelo highlights the metaphysical absence inherent in authority. Despite the traditional conceptualization of the king as an authority figure chosen by God, *Measure for Measure* and other Shakespearean plays (most obviously *Richard II*) subvert the conventional wisdom of divine right.

and inserts Angelo, a sign of the Duke's sovereignty, to accomplish the task of restoring order to the city—creates a structure where the departure of the godlike sovereign destabilizes the very foundation of the law. The loss of the supposedly pure presence of justice embodied in the Duke (the truth of which is questionable at best) activates a desire for the return of Vincentio. Indeed, the Duke's presence will become stronger through his absence, as the hard line stance adopted by Angelo alienates the citizens of Vienna. Speaking to the Duke disguised as a friar, for example, Lucio condemns Angelo's harsh legal approach: "Would the Duke that is absent have done this?" (3.1.359-60). In a sense, though, this is precisely the purpose of the Duke's absence: Angelo is essentially entrusted with the task of concentrating violence back into the Viennese power structure and away from the citizens, whose alleged sexual "liberty" has overwhelmed the law's attempts to exercise its power.<sup>6</sup> Because, in Vincentio's words, "Liberty plucks Justice by the nose," an act of violence is required to remystify the city's decaying institutions (1.3.29). Angelo's selection by Vincentio is ideal because it allows the law to commit the injustice necessary to its preservation while keeping the concept of justice supposedly embodied in the pure sovereignty of the Duke intact.

The violence required to preserve the law is not simply physical, although brute force does of course play an important role in Angelo's efforts to restore order to Vienna: not only does he condemn Claudio to death, but he pursues the condemned man's sister

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<sup>6</sup> Angelo's decision to prosecute Claudio for fornication—a questionable charge, as I will soon show—does of course call into question the extent to which sexual license is actually an issue in Vienna. Indeed, Jonathan Dollimore argues that the power structure manufactures the problem of sexuality in Vienna to better monitor its subjects: "Whatever subversive identity the sexual offenders in this play possess is a construction put upon them by the authority which wants to control them; moreover control is exercised through that construction" (73).

Isabella with sexual violence. The force on which Angelo depends, however, precedes his imposition of the death penalty and can be located in the act of legal decision itself. The task of a judge is, after all, to *read* the law, an activity grounded not in epistemological certainty but in the force of a decision or interpretation. Indeed, Vincentio at the beginning of the play invites Angelo to construe legal statutes in his own style: “Your scope is as mine own, / So to enforce or qualify the laws / As to your soul seems good” (1.1.64-66). The Duke here admits that the law is not a static entity: Angelo can either “enforce” the law, that is, take it at its word and follow its letter (if not its spirit), or he can “qualify” it, alter his decision based on the context of each case. The Duke’s words beg the question whether a juridical decision can ever completely refer back to the legal text that grounds it. Because it is an interpretation, legal judgment inevitably differs from the actual law, creating the opportunity to change it and, at least potentially, to undermine it. To “enforce” the law, in other words, always already means to “qualify” it. As Richmond Barbour argues, Vincentio “sanctions freedom of judgment, not unswerving adherence to decree” (198). The act of legal decision depends ultimately on Angelo’s subjective judgment, on the satisfaction of his “soul.” Although Angelo appears to be simply following the law to its letter, he is still offering an interpretation of the law itself, one that seems perverse and unfair to those around him. Vincentio thus reveals the deconstructive element lodged within the legal framework, the fact that interpretation supersedes any sort of objective reading of the legal code. The performativity at the law’s core renders it unstable, providing the condition of possibility for positive political change, but also for injustice, for an unjust reading.

Almost from the start, Angelo's actions reveal the violence inherent in legal decision. He readily admits, for example, that the jury trying a suspect may be guiltier than the criminal himself:

I not deny

The jury passing on the prisoner's life

May in the sworn twelve have a thief or two

Guiltier than him they try. What knows the law

That thieves do pass on thieves? What's open made to justice

That justice seizes. (2.1.18-23)

Angelo here acknowledges the structural limitations of the legal framework, emphasizing the primacy of interpretation over the perceived stability of the law, which he interestingly describes as powerless: "What knows the law / That thieves do pass on thieves?" The law here is essentially mute, unable to speak for itself and protect against an unjust reading. Angelo further undermines the stability of the law by arguing that "What's open made to justice / That justice seizes." The most obvious interpretation of these lines is that the law cannot possibly respond to every violation: Angelo knows that the problem of sexual license in Vienna goes well beyond the case of Claudio and Juliet, and in this sense the persecution of the couple seems arbitrary. But if Angelo is arguing simply that the law punishes what reveals itself most openly, why wouldn't he just say that "What's open to justice / That justice seizes"? Why does he include the verb "made," which implies an act of creation inherent in the function of the law? Angelo's words suggest that reading the law—interpreting or constructing it—must always supplement an

absence inscribed in its very foundation: the law rests not on stable metaphysical principles, but is “made” by the judge, whose mode of reading might differ from another. It is important to note, however, that the supplementary nature of Angelo’s reading does not necessarily mean that interpretation comes *after* the objective structure of the law. As we noted above, Vincentio entrusts Angelo with the double task of “enforcing” and “qualifying” the law: to carry out the law is always to change it.

For a character with a reputation for precision, such an admission of the essential ignorance of legal decision is noteworthy. Angelo recognizes that the fulfillment of the law necessarily denies the exactness he values so highly, particularly in the case of Claudio, whose planned execution strikes the audience as entirely unfair. When Lucio asks him if he has been arrested for “lechery,” Claudio responds, “Call it so” (1.2.118-119). As his words suggest, though, branding his crime as “lechery” or fornication hardly seems appropriate considering that the circumstances surrounding Juliet’s pregnancy and the legitimacy of her relationship with Claudio are ambiguous at best: the latter claims that he “got possession of Julietta’s bed” “upon a true contract” (1.2.122-23). In early modern England, a couple could legitimize a marriage if they exchanged vows in the present tense, whereas vows in the future tense only constituted a promise to wed.<sup>7</sup> While Claudio explains to Lucio that Juliet is “fast [his] wife,” the Norton editors point out that

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<sup>7</sup> Perhaps the most comprehensive examination of marriage law in early modern England is Martin Ingram’s *Church Courts, Sex and Marriage in England, 1570-1640*, especially pp. 190-218. Ingram notes that the late sixteenth and early seventeenth centuries—the era in which Shakespeare wrote—constituted “an uneasy transition period” for marriage law: “Despite widespread acceptance of church marriage and the decline of spousals even as a preliminary to ecclesiastical solemnization, the fact that an informal contract could still create a binding union entailed uncertainty, moral ambiguities and opportunities for deceit and fraud” (133). It is hard to imagine that this uncertainty was not on Shakespeare’s mind as he wrote *Measure for Measure*, which was first performed in 1604.



“fast” can here signify either “nearly” or “entirely,” which suggests the crucial distinction between future and past tense but does not resolve it (1.2.124). The important point is that marriage in Shakespeare’s England could depend almost entirely on a performative speech act.

That early modern marriage depends on a performative utterance indicates the instability not only of the institution itself but also of legal judgments surrounding it. According to B. J. Sokol and Mary Sokol, the fact that no specific language existed to confirm marriage merely added to the ambiguity: “A variety of signs, not all of them even verbal, was accepted as sufficient to indicate the existence of this consenting state. Not surprisingly, there were often difficulties in the interpretation of such signs” (14). The performativity inherent in marriage, then, also applies to its interpretation: although Angelo ignores the conceptual and linguistic ambiguity of Claudio’s union and the law surrounding it, his unjust judgment underscores the performative force inherent in the exercise of law. It is not simply that he is following the law precisely; he is instead rendering a subjective judgment on an act that may or may not even constitute a crime. At the moment he thinks he is imposing stability, then, Angelo is depending on the performativity of interpretation. Far from concentrating power back into the sovereign structure, Angelo’s understanding and practice of the law reveals the inconsistency at its core.

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Angelo’s harsh juridical philosophy—which involves strictly following the written rule despite his admission of the structural shortcomings of the law—resembles

Isabella's attitude toward Claudio and his death sentence. What is perhaps most disturbing about Isabella's ethical dilemma is that she gives little thought to her responsibility for her brother's welfare, choosing instead to preserve her chastity. Indeed, when we first encounter Isabella her demeanor is close to the "precise" Angelo's: she is preparing to enter a convent, a move that will allow her to literally distance herself from social relations in order to pursue a life of spiritual wholeness. She craves the imposition of rules—of law—to regulate her behavior, explaining to a nun that she "wish[es] a more strict restraint / Upon the sisterhood" (1.4.4-5). Later she tells Angelo that if she were sentenced to death she would embrace it: "The impression of keen whips I'd wear as rubies, / And strip myself to death as to a bed / That longing have been sick for" (2.4.101-03). Isabella's self-imposition of rules to govern her behavior seems to mask an underlying (or unconscious) desire for violence, either self-induced or imposed on others, one that we see also in Angelo's asceticism. While Angelo's insistence on full self-presence manifests itself in his harsh sentencing of Claudio and, subsequently, his sexually cruel and violent yearnings, Isabella channels her desire for metaphysical unity in projects of self-restraint that may be more destructive than virtuous.<sup>8</sup>

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<sup>8</sup> Jessica Slights and Michael Morgan Holmes depict Isabella's entrance into a convent as a political act, arguing that "the companionship made possible by religious sororities inevitably posed both tacit and explicit challenges to men's control over women's bodies and minds" (267). While Isabella's vocation no doubt unsettles the dominant construction of gender relations in Vienna, Slights and Holmes neglect the psychological implications of Isabella's decision: if the convent will allow her to subvert the patriarchal structure of early modern society, it will also instill in her discipline over her body and psyche. I favor instead the perspective of Donald R. Wehrs, who argues that *Measure for Measure* (and other Shakespearean comedies) constitutes "an ideal literary space for exposing the folly and moral cost of separating rationality from the corporeal entwinements of sociability and selfhood" (22).

Although her ethical judgments in the play tend toward violence, it is worth noting that Isabella is quick to invoke the importance of alterity in her initial meeting with Angelo, emphasizing the radical difference between her and Claudio and admitting that while she does not condone her brother's sexual indiscretion she must nevertheless defend him. She tells Angelo that premarital sex is "a vice that most I do abhor" (2.2.29), one "for which I would not plead, but that I must; / For which I must not plead, but that I am / At war 'twixt will and will not" (2.2.31-33). It is the internal conflict she feels with regard to the other—the "war 'twixt will and will not"—that elevates this moment from a case of simple rule-following to one of truly ethical significance. Isabella further stresses the importance of otherness when she tells Angelo that "we cannot weigh our brother with ourself," suggesting that a simple comparison between one person and the other fails to account for the differences that mark each subject (2.2.129). A philosophy that ignores difference and insists on imposing one person's moral framework onto another might be the highest manifestation of law, but it is surely not a condition for justice.

While Isabella may initially offer an other-centered ethical critique of Angelo's strict judgment, such an argument becomes significantly more difficult to defend when the deputy offers to pardon Claudio only if she will sleep with him. We must consider here—however difficult it may be—whether Isabella's chastity ought to take priority over her brother's life, whether the defense of her own honor and spiritual status supersedes her responsibility to the other. Such a question is perhaps impossible to answer, but it is precisely in this moment of impossibility where a decision must be rendered for justice to emerge. When Isabella meets her brother at the prison after

Angelo's proposal, she has definitively made up her mind: "Then Isabel live chaste, and brother die: / More than our brother is our chastity" (2.4.184-85). What Isabella seems to fear most about Angelo's advances is their potential for spiritual damage rather than physical discomfort, telling Claudio that she will have to "cleave a heart in twain" (3.1.60) to save him and also that her act "would bark your [Claudio's] honour from that trunk you bear, / And leave you naked" (3.1.70-71). As Claudio continues to plead for her intervention, arguing that her sin will be forgiven under the circumstances, she becomes increasingly hostile and ultimately seems to welcome her brother's death, calling him a coward and telling him that she will "pray a thousand prayers for thy death, / No word to save thee" (3.1.138; 147-48).

One certainly cannot fault Isabella for balking at the difficulty—if not the impossibility—of responsibility to the other, especially in a situation where rape is involved. I do not wish to argue that Isabella should submit to Angelo's advances. (After all, does Claudio not have some responsibility in this situation to his sister and to her spiritual wellbeing?) What I am trying to suggest instead is that Isabella encounters a situation where no firm rule has been established that can guide her decisions and actions. My argument thus runs counter to that of Jessica Slights and Michael Morgan Holmes, who argue that Claudio's plea amounts to little more than "sophistry": Whereas Claudio maintains that "a sinful action on his behalf [...] would make Isabella virtuous," Slights and Holmes believe that his sister rightly maintains that "sin can never be virtuous; a relationship that calls on her to relinquish not simply her honor but also her personal beliefs, desires, and sense of self is monstrous rather than natural" (284). While this

explanation is perhaps a satisfactory summary of Isabella's position, Slights and Holmes fail to account for ethical ambiguity of the situation, one where her Christian belief system breaks down in the face of two mutually opposed possibilities, both with spiritual implications. On the one hand, Isabella could justify the preservation of her chastity as the supreme sacrifice to God, a willingness to follow His dictates at the expense of the temporal comfort that would come if her brother avoided execution. On the other, by subjecting herself to discomfort on behalf of her brother she could carry out the ultimate sacrifice for another human being, a sacrifice reminiscent of Christ's crucifixion. Although either choice seems plausible given the Christian context of the play, Isabella does not even consider these ambiguities, subscribing instead to a binary opposition that privileges absolutely chastity (and, to Isabella's thinking, spiritual purity) over sacrifice.<sup>9</sup> It is not surprising, in other words, that Isabella ultimately decides not to submit to Angelo's advances; what is strange is that she gives no thought to it at all.

Isabella thus fails to recognize the trace of undecidability that, according to Derrida, is lodged in every decision: "even if time and prudence, the patience of knowledge and the mastery of conditions were hypothetically unlimited, the decision

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<sup>9</sup> Isabella's conflict reveals that Christianity itself is a doctrine of competing demands rather than a coherent system of belief, especially when it comes to the opposition between law and mercy: while Christ's emphasis on grace clearly contradicts the strict literalism of the Old Testament, his claim in Matthew that he seeks to "fulfill" Jewish law rather than "destroy" it suggests that Christianity is caught between the maintenance of the law and the mercy that has the potential to subvert it (5:17). Indeed, Julia Reinhard Lupton argues that "whereas the *institution* of law is the endpoint of the classical story, the *suspension* of law is the grace note of the Christian one," a transformation she explores in relation to Shakespearean drama (3, emphasis in original). Later in this paper I will discuss just such a "suspension" at the finale of *Measure for Measure*, when Vincentio reverses Angelo's harsh judgments; Isabella, though, seems to side ultimately with what she calls the "just but severe law" (2.2.42): although she tells Angelo in their initial encounter that, if God judges him as he judges Claudio, "mercy [...] will breathe within your lips, / Like man new made" (2.2.80-81), she tells her brother later that "mercy to thee would prove itself a bawd" (3.1.152). Isabella thus conceptualizes religion as a matter of rule following rather than possible redemption from such rules.

would be structurally finite, however late it came—a decision of urgency and precipitation, acting in the night of nonknowledge and nonrule” (FL 255). Here we can begin to see the similarity between legal and ethical decisions and, by extension, the parallel between Angelo and Isabella: whereas the former must ignore the fact that, in early modern England, a performative speech act can legitimate marriage, thus exonerating Claudio of fornication, the latter must ignore the conflicting spiritual and ethical implications of her responsibility to her brother. Both decisions exist beyond the realm of calculation and epistemological certainty; indeed, as the cases of Angelo and Isabella suggest, assuming that one has overcome such ambiguity can result in the worst violence.

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If Angelo and Isabella’s respective encounters with alterity reveal the inherent performativity lodged within decision making, it seems that the Duke’s bed trick and arrangement of marriages at the play’s end attempts to conceal it in an effort to reestablish authority and stability in Vienna. One can read his return, though, in two mutually exclusive ways, both of which I want to explore in the remainder of this paper: at first glance, Vincentio’s reemergence suggests a re-mystification of the law, an attempt to sweep aside the obvious injustice of Angelo’s temporary reign and impose a solution that, while appearing merciful, is arguably just as harsh as his deputy’s. At the same time, the fact that Vincentio must correct and alter the judgments of his substitute—who was entrusted with the same level of authority as his superior—points to the internal

contradictions of the legal and political framework in the city and perhaps indicates a future that will see the decay of totalitarian structures.<sup>10</sup>

Our understanding of the conclusion of the play hinges on how we read some of the Duke's final lines, which are far more complicated than most critics believe. After arranging the marriages and ostensibly restoring order to a city in crisis, the Duke tells those assembled that "There's more behind that is more gratefull" (5.1.522). In the most common reading of this line (one endorsed by the editors of the Norton edition), "behind" strangely signifies "to come," suggesting that there is something absent from the Duke's current arrangement that he will make up for in due time. In this reading, "behind" could refer to the curtain that will come down at the end of the play's performance: because something is missing that can only be revealed after the play is over, *Measure for Measure* would end not in harmony but in incompleteness. This metatheatrical interpretation implicitly draws a parallel between judging and acting: because the law depends on interpretation, Shakespeare could be suggesting here that one's reading of the law—even that of the Duke—is always performative, that it depends not on stable reality but on the force of a decision that always contains a level of epistemological violence. The disjunction between performative law and transcendental justice means that there is always a remainder, something that a legal decision cannot entirely account for (like

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<sup>10</sup> Some critics have explained the Duke's suspension of law at the end of the play as Shakespeare's engagement with the tension between equity and common law in the early modern period. Debora Kuller Shuger, for example, argues that Vincentio's actions demonstrate that it is the "king's right and duty to provide equitable redress if the common law courts either cannot or will not make justice happen" (77) and that "if one wished to grasp what royal absolutism 'felt' like in the first year of James's reign, Duke Vincentio may not be a bad exemplar" (81). As I have already pointed out, though, jurisdiction over marriage and fornication fell to the church courts rather than the common law courts. At the same time, Angelo's attempt to crack down on illegal sexuality in Vienna suggests that he is at least attempting to create a larger role for the government in legislating morality.

Angelo's willful ignorance of the ambiguity inherent in Claudio's "true contract" with Juliet or Isabella's disregard for the ambiguities of her ethical dilemma). In this light, Angelo's enigmatic lines discussed above—"What's open made to justice / That justice seizes"—acquire a new significance: the legal framework is "open," meaning that the gap between absolute certainty and interpretation provides the condition of possibility for legal decision.

While this gap enables Angelo to deliver an unjust reading of the law, it also means that Vienna's current political situation is unstable, performative and open to change. One could thus read the Duke's declaration as an unwitting prophecy of events to come, of a society on the horizon that neither he nor any character recognizes as such. The fact that *Measure for Measure* ends not with closure but with an opening points to the shortcomings of the law and the possibility of a future radically removed from the present. There is no doubt that the Duke's intention at the end of the play is to reassert his power; indeed, his transition from punishment to discipline is thoroughly Foucauldian in its biopolitical reliance on marriage rather than execution. Still, through his deconstruction of the power structure in the preceding pages, Shakespeare indicates that the law is not at all safe: power may have restored itself this time, but the Duke's swift resolution has solved nothing. The gap that allowed Angelo to reign tyrannically and gave Vincentio the ability to correct his deputy's judgment is the same gap that could lead to the overthrow of both. Slavoj Žižek argues that, in politics, "the New emerges in order to resolve an unbearable tension in the Old, and was as such already 'present' in the Old in a negative mode, in the guise of an infinite sadness and longing" (*Fragile Absolute*



89). If the “unbearable tension” in *Measure for Measure* is the mutually constitutive relationship of violence and law—so palpable during Angelo’s reign, but also evident in Vincentio’s return—the conclusion of the play will at least deconstruct it, if not resolve it entirely.

Earlier in the play, Lucio unwittingly articulates the “unbearable tension” that Žižek identifies in political structures in his declaration to Vincentio (disguised as a friar) that Angelo “dukes it well in [Vincentio’s] absence; he puts transgression to’t” (3.1.342). There are two ways to read this line: Lucio could be saying that Angelo represents Vincentio sufficiently, that he plays the role assigned to him (“dukes it”) well. In this reading, “put[ting] transgression to’t” would suggest prosecuting crime thoroughly by submitting “transgression” to the law. Paying attention to the pronoun “it,” though, one could argue that Angelo actually transgresses the role assigned to him, “putting transgression to”—that is, violating—his task to carry out the law. (As I discussed above, Vincentio’s charge to Angelo to “enforce or qualify” Vienna’s statutes suggests that to carry out the law is always to change it and, at least potentially, to violate its intended meaning). Lucio has thus identified arguably the most important political problem in the play: substitution, the process that sets *Measure for Measure*’s plot in motion, contributes to the decay of the commonwealth’s sovereign structure, revealing its fragility even as it allows it to continue operating.<sup>11</sup>

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<sup>11</sup> Reading the play as a thematization of the English republican movement’s failure after the relatively unproblematic transition from Elizabeth to James, Andrew Hadfield argues that *Measure for Measure* constitutes an “endorsement of the status quo” because although Vincentio is “a flawed and unattractive leader in many ways, [...] no alternative form of government is either deemed desirable or, indeed, proposed” (207). While it should come as no surprise that the notoriously ambivalent Shakespeare does not propose a political alternative to the Duke, I have attempted to show that he nevertheless reveals the

Shakespeare tropes this fragility in terms of disease: while at first glance the licentiousness of the people seems responsible for Vienna's decay, I would argue that the supposed presence of disease in the commonwealth figuratively applies to the power structure as well. In the first act Claudio refers to the city as the "body public" (1.2.136); while the ascription of physical characteristics to a community is not unusual, the almost constant mention of venereal disease in the play undermines this corporeal metaphor. Lucio, for example, tells a soldier that his bones "are hollow" because "impiety has made a feast of thee" (1.2.50-51), and Isabella explicitly tropes the function of power as both a sore and as medicine when encouraging Angelo to show mercy to Claudio: "Authority, though it err like others, / Hath yet a kind of medicine in itself / That skins the vice o'th'top" (2.2.137-39). Isabella recognizes the possibility that power can suffer from "vice," thus subjecting itself to the same licentiousness as the people. While she also argues for power's ability to correct itself, I want to suggest that if the Duke temporarily heals the diseased condition of the commonwealth through his arrangement of marriages, the very fact that he has to scramble to resolve his failed experiment in divided sovereignty indicates the instability of the Viennese community, the "hollowness" of the "body public." What we witness in *Measure for Measure* is thus the breakdown of the figural system of early modern power: although divine right insists that the sovereign is God's substitute on earth, Vincentio's attempts to take that substitution a step further by

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tensions lodged within the early modern system of law and sovereignty, tensions that may create the possibility for change.

transferring power to Angelo reveal that the sovereign structure is subject to contingency and even to violence.<sup>12</sup>

Opposed to this politically optimistic (if philosophically negative) reading, though, we must consider the alternative meaning of “behind,” which often signifies looking or moving backward<sup>13</sup>: at the end of the play, are the characters progressing toward a more just future or regressing back into tyranny? That is, when the Duke claims that there is “more behind that is more gratefull,” does he open the door for change or does he actually close it? What is most striking about Vincentio’s final judgment, after all, is that not only does it resolve nothing, but it actually reenacts Isabella’s traumatic encounter with Angelo, the very crime Vincentio seeks to punish. The structure of the trial resembles Isabella’s appeal to Angelo for Claudio’s pardon: after the Duke reveals himself to those assembled and orders Angelo to marry Mariana, he sentences his deputy to death. When Mariana appeals the ruling, Vincentio echoes Angelo’s initial rejection of Isabella’s call for leniency, telling Mariana that “You do but lose your labour.— / Away with him to death” (5.1.420-21). Isabella thus finds herself in a position where she must not only repeat her request for clemency to an authority figure, but must also endure that figure’s violent advances. After all, Vincentio’s arrangement of marriages includes his

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<sup>12</sup> In *Rogues*, Derrida argues that a political structure subjects itself to an “autoimmune” process where, to defend against internal or external enemies it “must thus come to resemble those enemies, to corrupt itself and threaten itself in order to protect itself against their threats” (40). While Derrida’s discussion of “autoimmunity” revolves around modern democracies, I think the same logic applies to *Measure for Measure* and the early modern political model on display there: in order to protect against Angelo’s abuses, the Duke intervenes; in the process, though, he imposes a solution that seems unjust and perhaps unstable. To restore order, then, Vincentio must engage in “transgression,” correcting the mistakes of his substitute and thus acknowledging the breakdown of the sovereign structure’s integrity.

<sup>13</sup> It is important to note that within the Shakespearean canon the signification of “behind” shifts depending on context. While in *Measure for Measure* the common gloss on “behind” is “to come,” the final line of Sonnet 50—“My grief lies onward and my joy behind” (14)—suggests that “behind” signifies a preceding condition or event.

proposal to Isabella, which he makes immediately after he reveals that Claudio is still alive: “If he be like your brother, for his sake / Is he pardoned; and for your lovely sake / Give me your hand, and say you will be mine” (5.1.484-86). In a sense, Vincentio’s request for (or imposition of) marriage is more violent than Angelo’s demand for sex, if more subtle: whereas Isabella had a choice whether or not to sleep with Angelo, Vincentio’s proposal is absolute, a performative speech act delivered by the sovereign. Vincentio intertwines violence and salvation, injustice and justice in his utterance, saving Claudio and condemning Isabella at the same time.<sup>14</sup>

The trial scene foregrounds what Shoshana Felman calls the “structural unconscious” of legal proceedings: “A pattern emerges in which the trial, while it tries to put an end to trauma, inadvertently performs an acting out of it. Unknowingly, the trial thus repeats the trauma, reenacts its structures” (5). The goal of the law is to negotiate what Felman calls an “abyss,” a traumatic event that cannot be narrated. In attempting to resolve this abyss, the law can do little more than reenact the crime the trial is designed to resolve (95). Isabella’s encounter with patriarchal authority is so traumatic that it cannot be settled, as Vincentio assumes, through a marriage proposal, yet another trauma in a play full of them. That Isabella ends the play in silence suggests very clearly that the law has not done its job; if anything, it has exacerbated the problem. Discussing Kafka’s *The Trial*, Felman argues that K.’s silence at the end of the novel—which resembles Isabella’s at the conclusion of this play—indicates “the failure of civilization to redeem

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<sup>14</sup> Perhaps I am falling prey to the very interpretative violence I critique throughout this paper by assuming that Isabella is not receptive to the Duke’s proposal. It seems unlikely, though, that a character who, as far as the reader knows, is still committed to chastity and the life of the convent would greet a marriage offer with joy. For a more thorough discussion of Isabella’s silence, see Stephanie Chamberlain’s “Expressing the Unexpressed: Silence as Emotive Performance in Shakespeare’s *Measure for Measure*.”

the silenced and the silencing capacity of law itself in its potential (and in its totalitarian reality) as civilization's most pernicious and most brutal tool of violence" (18). The law is structurally violent because it seeks to resolve the trauma of the victim through the force of a totalizing decision, which, as we have seen in the cases of Angelo and Isabella, can attempt to ignore undecidability but not overcome it entirely. The dissatisfaction readers have with the ending of the play can thus be traced to the fact that the trial is merely a repetition of the crime it is supposed to remedy. When the Duke declares that "there's more behind," he is possibly suggesting that there is no solution to the political system as it stands now, that there is too much in the preceding events of the play for Vincentio to completely resolve through a legal arrangement. Indeed, the Duke might not have any interest in resolving them.<sup>15</sup> In this sense, nothing has changed in the course of the play. If anything, Vienna is moving backwards.

While no character at the end of the play seems to acknowledge that Vienna could be subject to this repetition of tyranny—what we might call a political death drive—Claudio's plea to Isabella to save his life articulates such a possibility, if not in explicitly political terms:

Ay, but to die, and go we know not where;

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<sup>15</sup> The name of 2012 Republican presidential candidate Mitt Romney's political action committee—"Restore our Future"—recalls Vincentio's strange conflation of past and future. After all, how is one to "restore" something that has not yet occurred? Like Vincentio, Romney's rhetoric evokes a preparation for the future that may mask a mere return to the past. This structure of repetition also of course recalls the non-linearity of Christian eschatology, which posits the *return* of Christ as the moment of messianic fulfillment, a temporal ambiguity that leads to Jean-Luc Nancy's claim that Christianity is "originally deconstructive" (149): "Christianity is less a body of doctrine than a subject in relationship to itself in the midst of a search for self, within a disquietude, an awaiting or a desire for its proper identity" (38). Nancy's claim seems important not just for the religious but for the political implications of *Measure for Measure*: far from establishing stability, the ending of the play suggests that the Viennese community has not yet established a "proper identity" and that changes to the political structure are possible.

To lie in cold obstruction, and to rot;  
This sensible warm motion to become  
A kneaded clod [...]  
To be imprisoned in the viewless winds,  
And blown with restless violence round about  
The pendent world; or to be worse than worst  
Of those that lawless and incertain thought  
Imagine howling—'tis too horrible! (3.1.118-21, 124-28)

One notes the reappearance in this passage of the corporeal imagery Claudio used earlier in the play to describe the Viennese community (the “body public”): he is worried that death leads simply to “rotting,” to decay rather than spiritual fulfillment. But it is not simply that death renders one inanimate and thus unaware of the afterlife; he instead claims that in death we are “blown with restless violence round about / The pendent world,” which suggests an inability to move forward. There is no indication that Claudio changes his eschatological vision after the Duke restores order to Vienna: like Isabella, he remains silent, unwilling (or unable) to comment on the preceding events. The palpable absence of joy at the conclusion undermines not only the conventional temporality of Shakespearean comedy but also the temporality of politics and religion, both of which presuppose a progression toward a more just future.

Instead of acknowledging the undecidability presented by the ending—radical opening on the one hand, traumatic repetition on the other—critics often attempt to provide the last word to a text that resists such closure. This tendency leads Donald R.

Wehrs and Mark Fortier to interpret the Duke's concluding lines—"So bring us to our palace, where we'll show / What's yet behind that's meet you all should know"—in two very different ways (5.1.531-32). For Wehrs, "the play ends with hope" by indicating that "a reformed, redeemed society becomes possible in ways that enrich the present and make the future pregnant with good" (33). Fortier, by contrast, claims that, far from providing hope, the Duke "is instituting a new regime of truth, dishing out information, but only 'what's meet you all should know'" (379). I am interested in the disjunction between these markedly different interpretations, both of which are plausible precisely because of the ambiguous nature of the text. (Although neither critic discusses it, one notices that the concluding lines contain "behind," that strange signifier discussed above. Such repetition suggests that the Duke—the character Žižek might call "the subject presumed to know" (*Sublime Object* 213)—is not in control of his own language, that he precisely does *not* know what he is saying. The discourse Vincentio disseminates is thus not as consistent as he assumes it is). Like the legal code that Vincentio says can be "enforced" and "qualified," *Measure for Measure* is silent on the meaning of its resolution and thus resists a totalizing interpretation. Those who wish to argue for a Foucauldian understanding must ignore the radical possibility signified by the Duke's declaration that "there is more behind that is more grate"; conversely, those reading from a humanist perspective blind themselves to the fact that "behind" also suggests going backward, thus moving away from a justice of the future.

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While creating the condition of possibility for new readings, the undecidability inherent in the play also of course leads to unjust interpretations. In *Measure for Measure*'s critical history, G. Wilson Knight, whose "*Measure for Measure and the Gospels*" is often cited but now almost universally rejected, surely plays the role of Angelo. Arguing that Vincentio's actions at the conclusion of the play represent divine intervention, Knight claims that "the Duke, like Jesus, is the prophet of a new order of ethics" (88):

There is an enigmatic, other-worldly, mystery suffusing his figure and the meaning of his acts: their result, however, in each case justifies their initiation—wherein we see the allegorical nature of the play, since the plot is so arranged that each person receives his deserts in the light of the Duke's—which is really the Gospel—ethic. (81)

Knight's interpretation is of course problematic; for contemporary readers the Duke seems petty at best and tyrannical at worst, a leader more interested in the preservation of power than the achievement of justice. Knight, in other words, denies the ambiguities throughout the play that challenge his sweepingly allegorical reading. That being said, I do not want to abandon his thesis entirely. Although he remains within the terms of traditional Christian criticism, Knight inadvertently reveals a structure that creates the possibility for new interpretations. By briefly reconsidering Knight's work through the



lens of Derrida's rethinking of the messianic, I want to turn his argument on its head and attempt to defend it, or at least part of it.<sup>16</sup>

For Knight, the Duke progresses from “enigmatic, other-worldly mystery” to revelation: although for much of the play the Duke haunts Vienna's residents through his absence, Knight reads his appearance at the end as an event that answers all questions and resolves all conflict. The Duke's disappearance from the city creates a desire for his return, a pattern that of course corresponds to the Christian belief in the Second Coming of Christ. But while Knight sees the Duke's reemergence in the final act as the definitive realization of divine justice, Vincentio's clear inability to create a sense of closure and satisfaction suggests that the return of God has once again been deferred. Although Angelo says that the Duke has revealed himself “like power divine,” it is important to note that the deputy's statement is metaphorical, revealing that while the earthly sovereign is conceptualized as a divine presence, he is merely a signifier to the signified of divinity (5.1.361). Similarly, Knight refers to the Duke in the above passage as a “figure,” undermining his claim of the Duke's godly stature by fashioning him as a trope. The strange economy of substitution at work in the play—Angelo for the Duke and the Duke for God—lays the groundwork for the function of political and legal institutions while simultaneously revealing their metaphysical emptiness. The political problem that Knight inadvertently identifies is analogous to the problem of knowledge presented by theater, where different actors stand in for the play's characters depending on the

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<sup>16</sup> This non-traditional reading of Christianity in the play owes itself to what Julia Reinhard Lupton and others have referred to as the “religious turn” in Shakespeare studies. *English Language Notes* dedicates its Spring 2006 issue—which contains an article by Lupton—to this critical trend.

production company. The performativity inherent in the stage thus also appears in the political realm, a challenge to the epistemological stability privileged by Knight in his reading of the text.

While I agree with Knight that the play is concerned with a certain messianic principle, I would argue that it is precisely the impossibility of the Duke's divinity that creates the space for the messianic promise, a notion that we can extend both to reading and to questions of justice. In "Faith and Knowledge" Derrida invokes a "messianicity without messianism," which he defines as "the opening to the future or the coming of the other as the advent of justice, but without horizon of expectation and without prophetic prefiguration" (56). While Christianity fully expects the Second Coming of Christ, Derridean messianicity posits the impossibility of the Messiah's return—what Mouffe might call an "empty space"—as the phenomenon that creates the possibility for a radically different future. The absence of the Messiah elicits for Derrida "an invincible desire for justice," a desire we could perhaps locate in Isabella's closing silence (56).<sup>17</sup> As Anthony B. Dawson argues, Isabella's is "an ambiguous silence that [...] helps to undo the elaborate structure of verbal and theatrical authority constructed by the Duke and his deputy (and of course by Shakespeare himself as well)" (337). It is thus the shortcoming of the Duke's swift resolution at the end of *Measure for Measure* that foregrounds the discrepancy between law and justice: the space between the signifier and

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<sup>17</sup> Huston Diehl makes much the same point in an article exploring the connection between Calvinist discourse and early modern theater, arguing that the difference between the Duke and God, "the earthly magistrate and the divine Judge," "inevitably produces dissatisfaction, a longing for that which is represented but absent, the God who cannot be seen in this world face to face" (398).

signified remains open, an abyss that Vienna's power structure, itself predicated on unstable substitutions, may not be able to conceal for long.

Knight's Christian reading thus falls short because of his willingness to resolve the "enigmatic, other-worldly mystery" that surrounds the Duke: he fails to recognize that for the possibility of justice to emerge, the difference between Vincentio as signifier of God and God Himself *must* remain. The same logic obtains in the way we read the play: the moment we deny the text's otherness, its resistance to totalizing interpretation, we foreclose the possibility of new readings. It is important to note that this dream of a perfectly explicated text is not limited to Knight or the humanist criticism of *Measure for Measure* he spearheaded; a Foucauldian reading like Fortier's is guilty of the same tendency. Literary criticism and politics both require the recognition of a cognitive gap: like the formation of a society and its laws, the act of reading will always be performative, open to interpretation and thus to change. Just as law seeks to capture the transcendental signified of justice but always fall short, criticism reaches for an all-encompassing (theological) meaning at the expense of resistant textual elements. Within the confines of the law (reading), justice (meaning) is impossible; this very impossibility, however, paves the way for new interpretations and thus for change.

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